

105TH CONGRESS  
2D SESSION

# H. R. 3473

To amend the Age Discrimination in Employment Act of 1967 to allow institutions of higher education to offer faculty members who are serving under a contract or arrangement providing for unlimited tenure, benefits on voluntary retirement that are reduced or eliminated on the basis of age, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 1998

Mr. FAWELL (for himself, Mr. GOODLING, Mr. McKEON, Mr. ANDREWS, Mr. ROEMER, and Mr. PETRI) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Age Discrimination in Employment Act of 1967 to allow institutions of higher education to offer faculty members who are serving under a contract or arrangement providing for unlimited tenure, benefits on voluntary retirement that are reduced or eliminated on the basis of age, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. VOLUNTARY RETIREMENT INCENTIVE PLANS.**

2 (a) IN GENERAL.—Section 4 of the Age Discrimina-  
3 tion in Employment Act of 1967 (29 U.S.C. 623) is  
4 amended by adding at the end the following:

5 “(m) Notwithstanding subsection (f)(2)(B), it shall  
6 not be a violation of subsection (a), (b), (c), (e), or (i)  
7 solely because a plan of an institution of higher education  
8 (as defined in section 1201(a) of the Higher Education  
9 Act of 1965 (20 U.S.C. 1141(a))) offers employees who  
10 are serving under a contract of unlimited tenure (or simi-  
11 lar arrangement providing for unlimited tenure) additional  
12 benefits upon voluntary retirement that are reduced or  
13 eliminated on the basis of age, if—

14 “(1) such institution does not implement with  
15 respect to such employees any age-based reduction  
16 or elimination of benefits that are not such addi-  
17 tional benefits, except as permitted by other provi-  
18 sions of this Act; and

19 “(2) with respect to each of such employees  
20 who have, as of the time the plan is adopted, at-  
21 tained the minimum age and satisfied all non-age-  
22 based conditions for receiving a benefit under the  
23 plan, such employee is not precluded on the basis of  
24 age from having 1 opportunity lasting not less than  
25 180-days to elect to retire and to receive the maxi-  
26 mum benefit that would be available to a younger

1 employee if such younger employee were otherwise  
2 similarly situated to such employee.”.

3 (b) CONSTRUCTION.—

4 (1) APPLICATION.—Nothing in the amendment  
5 made by subsection (a) shall be construed to affect  
6 the application of section 4 of the Age Discrimina-  
7 tion in Employment Act of 1967 (29 U.S.C. 623)  
8 with respect to—

9 (A) any employer other than an institution  
10 of higher education (as defined in section  
11 1201(a) of the Higher Education Act of 1965);  
12 or

13 (B) any plan not described in subsection  
14 (m) of section 4 of such Act (as added by sub-  
15 section (a)).

16 (2) RELATIONSHIP TO PROVISIONS RELATING  
17 TO VOLUNTARY EARLY RETIREMENT INCENTIVE  
18 PLANS.—Nothing in the amendment made by sub-  
19 section (a) shall be construed to imply that a plan  
20 described in subsection (m) of section 4 of such Act  
21 (as added by subsection (a)) may not be considered  
22 to be a plan described in section 4(f)(2)(B)(ii) of  
23 such Act (29 U.S.C. 623(f)(2)(B)(ii)).

1 **SEC. 2. EFFECTIVE DATE.**

2 (a) IN GENERAL.—This Act shall take effect on the  
3 date of enactment of this Act.

4 (b) EFFECT ON CAUSES OF ACTION EXISTING BE-  
5 FORE DATE OF ENACTMENT.—The amendment made by  
6 section 1(a) shall not apply with respect to any cause of  
7 action arising under the Age Discrimination in Employ-  
8 ment Act of 1967 prior to the date of enactment of this  
9 Act.

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